

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 7328

BILL NUMBER: HB 1585

DATE PREPARED: May 2, 2001

BILL AMENDED: Apr 29, 2001

SUBJECT: Alcohol and Tobacco.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill has the following provisions:

It changes the name of the Alcoholic Beverage Commission to the Alcohol and Tobacco Commission.

It provides for resolving a tie vote of the Commission.

It establishes experience requirements for the superintendent of law enforcement officers.

It allows a permittee to give notice of an application by placing a sign on the affected property in some circumstances.

It allows the Commission to accept payment by credit card, money order, or electronic transfer.

It allows an Internet company to obtain a salesman's permit.

It prohibits the issuance of an employee's permit to certain persons convicted of operating while intoxicated.

It allows express hotels to sell alcoholic beverages. It allows hotels to set different prices for alcoholic beverages served in different restaurants in the same hotel complex.

It revises the fee schedule for permits.

It imposes interest, a late payment penalty, and the reasonable costs of collection on a person who fails to make a timely payment of a civil penalty payable to the Youth Tobacco Education and Enforcement Fund. It makes it a Class C infraction for a person to purchase tobacco for a minor.

The bill allows certain tobacco notices to have alternative language approved by the Commission. It allows the Alcohol and Tobacco Commission to provide alternative words for notices that are required to be posted on vending machines that sell tobacco. It makes changes regarding the advertisement of tobacco products on signs or billboards.

It allows a facility that operates a track that is used primarily in the sport of auto racing to allow a person to enter its establishment with alcoholic beverages.

It allows a person at least 19 years of age but less than 21 years of age who has completed a server training program to serve alcoholic beverages in a dining area or family room of a restaurant or hotel in the course of the person's employment as a waiter, waitress, or server while under the supervision of a person who is at least 21 years of age, is present at the restaurant or hotel, and has completed an approved server training program.

The bill requires the Alcohol and Tobacco Commission to adopt rules regarding the server training program.

The bill adds a holder of a beer wholesaler's permit to those persons required to pay the excise tax on hard cider.

It allows a premise to be located within 200 feet of a church or school if the Commission determines that the church or school does not object. The bill provides that if the Commission determines the church or school does not object, the Commission's determination applies to any renewal of the permit for the premises.

The bill allows the Commission to issue a liquor retailer's permit to a social club in a municipality with a population of less than 5,000 without requiring the municipality to adopt an enabling ordinance.

The bill also makes other changes, technical corrections, and conforming amendments.

Effective Date: (CCR Amended) Upon Passage; July 1, 2001.

Explanation of State Expenditures: (Revised) *Administrative Changes:* The Alcoholic Beverage Commission (ABC) may experience an increase in administrative costs related to the changes proposed in this bill. However, any additional costs are expected to be absorbed through administrative action using existing funds and resources.

Server Training Program: The bill allows the ABC to develop rules to implement a server training program for prospective alcoholic beverage servers. (The bill allows persons between the ages of 19 and 21 to serve alcoholic beverages, provided that they have completed an ABC-approved training program). Any costs associated with the development and implementation of the server training program are expected to be recovered through service fees.

Explanation of State Revenues: (Revised) *Acceptance of Credit Cards:* This provision would allow the ABC to accept payment of application and license fees by credit cards. The impact of this bill on the Commission will depend on several factors, including the type of cards the Commission authorizes for use, the number of application and license fees that are paid by credit card, the fees the Commission would charge on transactions with a card, and the ability of the Commission to charge processing fees to customers who use the cards.

Credit card companies charge establishments on each transaction. This charge is typically a percentage of an item's purchase price: the percentage may vary depending on the amount of the transaction, retailer's sales volume, and other factors. The fee is subtracted from the amount the issuing banks remit back to the establishment. Of three major card companies, Visa, MasterCard, and Discover, only Discover allows establishments to charge card users a processing fee to cover its charges to the establishments. Visa and MasterCard have revoked an establishment's authority to process credit card transactions if a card user is charged a transaction fee. Visa and MasterCard may allow the ABC to assess a fee if the Commission were able to add an additional service-related fee to the card's use. (For example, the renewal of licences or permits by phone or the Internet.)

The Bureau of Motor Vehicles' experience with the use of credit cards indicates that with respect to the total number of transactions, Visa and MasterCard were used 11% of the time, whereas the Discover card was used 1-1 ½% of the time.

Based on this information, the ABC could experience a reduction in revenue if the Commission decides to accept credit cards and is not able to charge its customers a processing fee. Revenue collected from ABC permits and licenses are deposited in the state General Fund, the ABC's Enforcement and Administration Fund, and Excise Police Retirement Fund. In FY 2000, the ABC collected approximately \$8.1 M in permit and license fees. If 12.5% of the customers used credit cards, an annual processing fee would be assessed on \$1,012,500 (12.5% of the \$8.1 M). Assuming that the processing fee is 1 ½ %, the ABC's revenue would be reduced by \$15,188. If, however, the Commission is able to charge credit card users a transaction fee when cards are used, the reduction in revenue to these funds may be partially mitigated.

Employee Permit Limitations: Prohibiting the ABC from issuing an employee permit to certain persons convicted of operating while intoxicated could cause a slight reduction in permit fees. There are approximately 90,000 employee permit holders in the state. The license fee for employee permits is \$20, paid biennially. Revenue from these permits is deposited in the ABC's Excise Police Retirement Fund.

Hotels and Permit Fees: The bill allows certain express hotels to serve alcohol. Under current law, a hotel must have more than fifty sleeping rooms and have a regular dining room to serve alcohol. The provision could generate revenue if alcoholic beverage permits are issued to express hotels. Revenue from the sale of hotel permits is deposited into the ABC's Excise Fund.

Fees: The bill simplifies and restructures the fee schedule for alcoholic beverage permits and also makes changes to fees charged for some of the permits deposited into the ABC's Excise Fund. The ABC estimates that the changes in the fees will increase revenue to the Excise Fund by approximately \$630,000. Approximately **\$210,000** (1/3) of this increase will be deposited in the state General Fund. The remaining portion of Excise Fund revenue is allocated to cities, towns, and counties based on where a permittee is located. *Information regarding changes in the fees of specific permits is available from the Legislative Services Agency.*

Youth Tobacco Education and Enforcement Fund: This bill removes the requirement that specified amounts of the money in the Youth Tobacco Education and Enforcement Fund be used for specified purposes. The bill also sets fines for the untimely payment of fines payable to the Fund and makes violators liable for expenses incurred by the Commission in pursuing a civil penalty. Any additional fines would be paid to the Youth Tobacco Education and Enforcement Fund.

Beer Wholesaler's Permit: This provision will allow holders of a beer wholesaler's permit to sell hard cider.

It is not expected to have a significant impact on state revenues.

Age of Servers: This provision would allow a person that is at least 19 to serve alcoholic beverages in a dining area or family area of a restaurant or hotel. However, the bill does not allow persons under the age of 21 to bartend. (Current law requires all servers of alcoholic beverages to be at least 21.) The bill specifies that these younger servers must complete a server training program approved by the ABC and be under the supervision of a person who is at least twenty-one years of age. Since this bill expands the number of potential servers, it is expected that more ABC Employee Permits will be issued. Employee Permits cost \$20 and are renewable biennially.

Revenue from Employee Permit fees is deposited in the Excise Police Retirement Fund to pay benefits and administrative costs. Surplus revenue goes to the Enforcement and Administration Fund for ABC administrative costs.

Penalty Provisions: The bill makes it a Class C infraction to purchase tobacco for a person under eighteen. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class C infraction is \$500. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Permit Fees:* Two-thirds of the Excise Fund revenue from permit fees is distributed to the general fund of cities, towns, and counties based on where the permittee is located. The fee increases proposed in this bill are estimated to increase the Excise Fund distribution to cities, towns, and counties by **\$420,000**.

Penalty Provisions: If additional court actions occur and a judgement is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Alcoholic Beverage Commission.

Local Agencies Affected: Trial courts, local law enforcement agencies; Indianapolis.

Information Sources: Clifford Ong, Chairman, Alcoholic Beverage Commission, (317) 232-7444; John Ryan, Department of Natural Resources, (317) 232-3441; Don Okey, Alcoholic Beverage Commission, 232-2463.